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MAILED
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OFFICE OF PETITIONS

In re Patent No. 8,062,722	:
Blum et al.	: DECISION ON REQUEST FOR
Issue Date: November 22, 2011	: RECONSIDERATION OF
Application No. 10/598,366	: PATENT TERM ADJUSTMENT
Filed: December 20, 2006	: AND NOTICE OF INTENT
Atty Docket No. 53000 PCT US	: TO ISSUE CERTIFICATE OF
Title: CONDOM WITH WARMTH	: CORRECTION
IMPARTING LUBRICANT	:

This is a decision on the petition filed on January 23, 2012, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred forty-seven (847) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The term of the above-identified patent is extended or adjusted by **six hundred nine (609)** days.

The calculation of delay pursuant to 37 CFR 1.702(b) in this international application should have been based on a national stage commencement date of August 28, 2006, the date of expiration of the 30-month period pursuant to 35 U.S.C. 371(b). The priority date of this application is February 26, 2004. The application transmittal confirms that patentee did not make an express request to begin national examination procedure under 371(f). Further, as August 26, 2006, the date of the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Saturday, the period expired on the subsequent business day.

See PCT Rule 80.5. Accordingly, the commencement date is Monday, August 28, 2006.

Moreover, the period beginning on August 29, 2009, the day after the three-year date, and ending on January 3, 2011, the day before the date of filing of a request for continued examination (RCE) is 493 days. However, the period consumed by appellate review, whether successful or not, is also excluded from the calculation of "B" delay. See 35 U.S.C. 154(b)(1)(B)(ii). This period is calculated as 214 days from the filing of a notice of appeal on June 4, 2010 to the mailing of the notice of allowance on July 13, 2011 (considering the intervening filing of a request for continued examination on January 4, 2011). As the period beginning on the date of filing of the RCE is already not included in "B" delay, the period excluded for appellate review ends with the filing of a RCE. Accordingly, the patent term adjustment is increased by $(493 - 214)$ 279 days for B delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred nine (609) days**.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

/Nancy Johnson/

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 8,062,722 B2

DATED : November 22, 2011

DRAFT

INVENTOR(S) : Blum et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 330 days

Delete the phrase “by 330 days” and insert – by 609 days--